

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

United States of America

ex rel. ALEX DOE, Relator,

The State of Texas

ex rel. ALEX DOE, Relator,

The State of Louisiana

ex rel. ALEX DOE, Relator,

Plaintiffs,

V.

Planned Parenthood Federation of America, Inc.,
Planned Parenthood Gulf Coast, Inc., Planned
Parenthood of Greater Texas, Inc., Planned
Parenthood South Texas, Inc., Planned Parenthood
Cameron County, Inc., Planned Parenthood San
Antonio, Inc.,

Defendants.

CIVIL ACTION NO. 2:21-CV-
00022-Z

**APPENDIX IN SUPPORT OF DEFENDANTS' MOTION TO EXTEND TIME
TO ANSWER OR OTHERWISE RESPOND TO COMPLAINTS**

ARNOLD & PORTER KAYE SCHOLER LLP

Christopher M. Odell
Texas State Bar No. 24037205
700 Louisiana St. Suite 4000
Houston, TX 77002-2755
Christopher.odell@arnoldporter.com
Telephone: 713.576.2400
Fax: 713.576.2499

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2. Defendants engaged Arnold & Porter Kaye Scholer LLP to represent Defendants in this litigation on January 13, 2022, which is the first date that counsel or the Defendants had notice of the *Roe qui tam* case or the Texas complaint-in-intervention. Previously, counsel represented the Defendants in connection with responding to Civil Investigative Demands issued by the Department of Justice; however, the Department of Justice declined to inform counsel as to whether a *qui tam* case had been filed (as it at that time remained under seal).
3. After counsel was retained, I reached out to counsel for the Relator and counsel for the State of Texas, offered to waive service under Rule 4 of the Federal Rules of Civil Procedure, and proposed a meeting to discuss an agreed response schedule. A true and correct copy of the email I sent to Relator's counsel is attached as **Exhibit 1**. A true and correct copy of the email I sent to Counsel for the State of Texas is attached as **Exhibit 2**. Plaintiffs' Counsel did not agree to my proposal.
4. Since that time, Defendants have conferred extensively with Plaintiffs' Counsel to attempt to reach a resolution on Defendants' proposal. Plaintiffs have stated in an email dated January 27, 2022, that "our position is that 30 days from January 14 is a reasonable extension. Any additional extension is not warranted in our view." A true and correct copy of that email is attached as **Exhibit 3**.

5. I declare under penalty of perjury pursuant to laws of the State of Texas and the United States of America that the foregoing is true and correct.

Executed this 28th day of January 2022 in Bethesda, Maryland.

By:



Craig D. Margolis

Exhibit 01

App. 004

From: [Margolis, Craig D.](#)
To: andrew@hackerstephens.com
Subject: U.S. ex rel. Doe v. Planned Parenthood
Date: Friday, January 14, 2022 12:32:51 PM

Andrew

Just left you a voicemail at your office to introduce myself. Our Firm will be representing Planned Parenthood Gulf Coast, Planned Parenthood of South Texas, and Planned Parenthood of Greater Texas, and their affiliates, in the Doe case. We realize that you have been in the process of serving various entities. We are prepared to waive service under Rule 4 and I would like to discuss with you a schedule for responding to the complaint.

Please email or call at your convenience.

Thanks,

Craig

Craig Margolis
Partner

Arnold & Porter
601 Massachusetts Ave., NW
Washington | District of Columbia 20001-3743
T: +1 202.942.6127
Craig.Margolis@arnoldporter.com | www.arnoldporter.com

Exhibit 02

App. 006

From: [Margolis, Craig D.](#)
To: winter@oag.state.tx.us
Subject: U.S. ex rel. Doe v. Planned Parenthood
Date: Friday, January 14, 2022 12:37:32 PM

Raymond

Just left you a voicemail at your office to introduce myself. Our Firm will be representing Planned Parenthood Gulf Coast, Planned Parenthood of South Texas, and Planned Parenthood of Greater Texas, and their affiliates, in the Doe case. We are prepared to waive service under Rule 4 and I would like to discuss with you a schedule for responding to the State's complaint-in-intervention.

Please email or call at your convenience.

Thanks,

Craig

Craig Margolis
Partner

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601 Massachusetts Ave., NW
Washington | District of Columbia 20001-3743
T: +1 202.942.6127
Craig.Margolis@arnoldporter.com | www.arnoldporter.com

Exhibit 03

App. 008

From: Andrew Stephens <andrew@hackerstephens.com>
Sent: Thursday, January 27, 2022 7:15 PM
To: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>
Cc: Heather Hacker <heather@hackerstephens.com>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Halie.Daniels@oag.texas.gov; Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M. <Christopher.Odell@arnoldporter.com>; Sheehan, Christian <Christian.Sheehan@arnoldporter.com>
Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

External E-mail

Craig,

Your email accurately states our position.

Best regards,

Andrew

From: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>
Sent: Thursday, January 27, 2022 4:57 PM
To: Andrew Stephens <andrew@hackerstephens.com>
Cc: Heather Hacker <heather@hackerstephens.com>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Halie.Daniels@oag.texas.gov; Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M. <Christopher.Odell@arnoldporter.com>; Sheehan, Christian <Christian.Sheehan@arnoldporter.com>
Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

Understood. We will move for an extension of forty-five days as indicated but will represent your position that you consent to thirty days from January 14 and you do not agree to any further extension.

Please let me know if that does not accurately present your position.

Regards,

App. 009

Craig

Craig Margolis

Partner

Arnold & Porter

601 Massachusetts Ave., NW

Washington | District of Columbia 20001-3743

T: +1 202.942.6127

Craig.Margolis@arnoldporter.com | www.arnoldporter.com

From: Andrew Stephens <andrew@hackerstephens.com>

Sent: Thursday, January 27, 2022 5:03 PM

To: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>

Cc: Heather Hacker <heather@hackerstephens.com>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Halie Daniels <Halie.Daniels@oag.texas.gov>; Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M. <Christopher.Odell@arnoldporter.com>; Sheehan, Christian <Christian.Sheehan@arnoldporter.com>

Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

External E-mail

Craig,

We have conferred with counsel for Texas and our position is that 30 days from January 14 is a reasonable extension. Any additional extension is not warranted in our view.

Best regards,

Andrew

Andrew B. Stephens

Partner

HACKERSTEPHENS LLP

www.hackerstephens.com

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From: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>

App. 010

Sent: Thursday, January 27, 2022 1:20 PM

To: Andrew Stephens <andrew@hackerstephens.com>

Cc: Heather Hacker <heather@hackerstephens.com>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Halie Daniels <Halie.Daniels@oag.texas.gov>; Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M. <Christopher.Odell@arnoldporter.com>; Sheehan, Christian <Christian.Sheehan@arnoldporter.com>

Subject: Re: U.S. ex rel. Doe v. Planned Parenthood

Yes. The trial was continued, which is why in part we have shortened up the time for the request.

Thanks

Craig

Craig D. Margolis
Arnold & Porter
601 Massachusetts Avenue, N.W.
Washington, DC 20001
Tel. 202-942-6127

On Jan 27, 2022, at 1:57 PM, Andrew Stephens <andrew@hackerstephens.com> wrote:

External E-mail

Craig,

We are conferring with counsel for TX and will get back to you. Do you have an update after your hearing this morning with Judge Hoyt as to whether your trial is going forward on 2/14?

Best regards,

Andrew

Andrew B. Stephens
Partner

HACKERSTEPHENS LLP
www.hackerstephens.com

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App. 011

From: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>
Sent: Thursday, January 27, 2022 10:33 AM
To: Andrew Stephens <andrew@hackerstephens.com>; Heather Hacker <heather@hackerstephens.com>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Halie.Daniels@oag.texas.gov
Cc: Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M. <Christopher.Odell@arnoldporter.com>; Sheehan, Christian <Christian.Sheehan@arnoldporter.com>
Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

Andrew et al.

We are likely going to file a motion for extension of time today. In the interest of reaching some accommodation, we will be asking for 45 days from January 14, which is March 28, one week earlier than our last proposal. Please let us know at your earliest convenience if you will consent before we file. We will need to certify that we attempted to meet and confer in good faith.

Regards,

Craig

Craig Margolis
Partner

Arnold & Porter
601 Massachusetts Ave., NW
Washington | District of Columbia 20001-3743
T: +1 202.942.6127
Craig.Margolis@arnoldporter.com | www.arnoldporter.com

From: Andrew Stephens <andrew@hackerstephens.com>
Sent: Friday, January 21, 2022 11:33 AM
To: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>; Heather Hacker <heather@hackerstephens.com>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Halie.Daniels@oag.texas.gov
Cc: Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M.

App. 012

<Christopher.Odell@arnoldporter.com>; Sheehan, Christian

<Christian.Sheehan@arnoldporter.com>

Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

External E-mail

Craig,

We have conferred with counsel for Texas and we can't agree to your proposed March 7 response date. We are still willing to give Defendants 30 days from January 14 to respond to both complaints which we think is a reasonable extension.

Best regards,

Andrew

Andrew B. Stephens

Partner

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From: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>

Sent: Thursday, January 20, 2022 10:13 AM

To: Andrew Stephens <andrew@hackerstephens.com>; Heather Hacker <heather@hackerstephens.com>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Halie Daniels <Halie.Daniels@oag.texas.gov>

Cc: Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M. <Christopher.Odell@arnoldporter.com>; Sheehan, Christian <Christian.Sheehan@arnoldporter.com>

Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

Counsel

That's disappointing and doesn't bode well in terms of professional courtesy going forward in what is likely to be already contentious and potentially lengthy litigation.

In any event, we have conferred among our team and we are willing to propose a date

App. 013

of March 7 for a response date for all defendants. Because not all defendants were served on the same date, it will ease scheduling for the parties and the Court to have a single date. This date is shorter than the sixty days we had requested. In addition, we remain willing to waive any defects in service as part of this agreement, as we believe that there are defects in service for at least two of the defendants.

We hope that you will agree and we can stop wrangling over a threshold procedural/scheduling issue that is usually the subject of agreement. We note that, in his fairly short time on the bench, Judge Kacsmaryk has routinely granted extensions to respond to complaints. Here, there are two lengthy complaints, multiple parties, and complex allegations. Further, as we have told you, a significant part of our team is currently scheduled to begin trial in Houston on February 14, but we believe an extension would be justified even absent this factor. Finally, you have not identified any prejudice from the requested extension, nor could there be any. As you know, the Planned Parenthood affiliates were terminated from Texas Medicaid and are no longer billing under that program. Injunctive relief has not been sought. Finally, certainly both relator and the State agreed to multiple extensions of the seal during the investigation period. There is simply no urgency that would justify a shorter period than has been requested. For all of these reasons, the extension we have requested we believe is more than reasonable.

Please let us know your response at your earliest opportunity. If you do not agree, we will ask the Court for the full sixty days and will not waive any defects as to service.

We look forward to your response.

Regards,

Craig

Craig Margolis

Partner

Arnold & Porter

601 Massachusetts Ave., NW

Washington | District of Columbia 20001-3743

T: +1 202.942.6127

Craig.Margolis@arnoldporter.com | www.arnoldporter.com

From: Andrew Stephens <andrew@hackerstephens.com>

Sent: Wednesday, January 19, 2022 12:50 PM

To: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>; Heather Hacker <heather@hackerstephens.com>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Halie.Daniels@oag.texas.gov

App. 014

Cc: Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah
<Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M.
<Christopher.Odell@arnoldporter.com>; Sheehan, Christian
<Christian.Sheehan@arnoldporter.com>
Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

External E-mail

Craig,

We conferred with counsel for Texas and we can't agree to a 60-day extension of the time to respond to the Relator's and the State's complaints. If you have another proposal please let us know and we will consider it.

Best regards,

Andrew

Andrew B. Stephens
Partner

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From: Andrew Stephens
Sent: Tuesday, January 18, 2022 1:55 PM
To: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>; Heather Hacker
<heather@hackerstephens.com>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Raymond
Winter <Raymond.Winter@oag.texas.gov>; Halie Daniels <Halie.Daniels@oag.texas.gov>
Cc: Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah
<Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M.
<Christopher.Odell@arnoldporter.com>; Sheehan, Christian
<Christian.Sheehan@arnoldporter.com>
Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

Thanks, Craig. We'll confer and get back to you.

Best regards,

App. 015

Andrew

From: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>
Sent: Tuesday, January 18, 2022 1:46 PM
To: Andrew Stephens <andrew@hackerstephens.com>; Heather Hacker <heather@hackerstephens.com>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Halie Daniels <Halie.Daniels@oag.texas.gov>
Cc: Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M. <Christopher.Odell@arnoldporter.com>; Sheehan, Christian <Christian.Sheehan@arnoldporter.com>
Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

Folks

Appreciate our conversation earlier today. To recap, defendants in exchange for plaintiffs' agreement to a sixty-day extension of the time to respond to the Relator's and the State's complaints would waive any defects in the manner of service. You were prepared to agree to thirty days to respond but will consider our sixty day proposal and get back to us promptly.

Separately, I forgot to mention on the call that we also have been retained by Planned Parenthood Federation of America along with the three Texas affiliates. Accordingly, we ask for the sixty day extension and offer in exchange not to challenge service on behalf of all defendants.

Thanks very much and look forward to hearing from you.

Regards,

Craig

Craig Margolis
Partner

Arnold & Porter
601 Massachusetts Ave., NW
Washington | District of Columbia 20001-3743
T: +1 202.942.6127
Craig.Margolis@arnoldporter.com | www.arnoldporter.com

From: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>
Sent: Friday, January 14, 2022 3:00 PM

App. 016

To: Andrew Stephens <andrew@hackerstephens.com>
Cc: Heather Hacker <heather@hackerstephens.com>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Halie Daniels <Halie.Daniels@oag.texas.gov>; Hussain, Murad S. <Murad.Hussain@arnoldporter.com>; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Odell, Christopher M. <Christopher.Odell@arnoldporter.com>; Sheehan, Christian <Christian.Sheehan@arnoldporter.com>
Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

Andrew

Thanks for getting back to me. Wasn't sure when I wrote if all entities yet had been served – and I believe in some instances there are questions as to effectiveness of service – but as I mentioned I don't think we will need to fuss with all that once we work out a schedule. If you are available Monday, I would suggest we speak then. Please let us know if that is convenient and times that might work for you and Raymond (and your respective team members).

I'm also including some of the folks working on the case with us in the cc.

Have a good weekend.

Regards,

Craig

Craig Margolis
Partner

Arnold & Porter
601 Massachusetts Ave., NW
Washington | District of Columbia 20001-3743
T: +1 202.942.6127
Craig.Margolis@arnoldporter.com | www.arnoldporter.com

From: Andrew Stephens <andrew@hackerstephens.com>
Sent: Friday, January 14, 2022 2:54 PM
To: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>
Cc: Heather Hacker <heather@hackerstephens.com>; Raymond Winter <Raymond.Winter@oag.texas.gov>; Amy Hilton <Amy.Hilton@oag.texas.gov>; Halie Daniels <Halie.Daniels@oag.texas.gov>
Subject: RE: U.S. ex rel. Doe v. Planned Parenthood

External E-mail

App. 017

Craig,

Thanks for your email. The defendants were served yesterday, see attached. I spoke with Ray Winters (cc'd) and we're all available for a call next week. Let us know what day works for you.

Best regards,

Andrew

Andrew B. Stephens
Partner

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From: Margolis, Craig D. <Craig.Margolis@arnoldporter.com>
Sent: Friday, January 14, 2022 12:33 PM
To: Andrew Stephens <andrew@hackerstephens.com>
Subject: U.S. ex rel. Doe v. Planned Parenthood

Andrew

Just left you a voicemail at your office to introduce myself. Our Firm will be representing Planned Parenthood Gulf Coast, Planned Parenthood of South Texas, and Planned Parenthood of Greater Texas, and their affiliates, in the Doe case. We realize that you have been in the process of serving various entities. We are prepared to waive service under Rule 4 and I would like to discuss with you a schedule for responding to the complaint.

Please email or call at your convenience.

Thanks,

Craig

Craig Margolis
Partner

App. 018

Arnold & Porter
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Craig.Margolis@arnoldporter.com | www.arnoldporter.com

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